

EPA ENFORCEMENT ACCOUNTS RECEIVABLE CONTROL NUMBER FORM FOR ADMINISTRATIVE ACTIONS

This form was originated by Wanda I. Santiago for Christine Foot
Name of Case Attorney

7/8/13
Date

in the ORC (RAA) at 918-1113
Office & Mail Code Phone number

Case Docket Number TSCA-01-2013-0005

Site-specific Superfund (SF) Acct. Number _____

This is an original debt This is a modification

Name and address of Person and/or Company/Municipality making the payment:

Ciotola and Simone
35 Evergreen Road
Chepachet, RI 02814

Total Dollar Amount of Receivable \$ 13,900 Due Date: 10/5/13

SEP due? Yes No Date Due _____

Installment Method (if applicable)

INSTALLMENTS OF:
1ST \$ 4,700 on 5/8/13
2ND \$ 4,658 on 7/22/13
3RD \$ 4,629 on 10/5/13
4TH \$ _____ on _____
5TH \$ _____ on _____

For RHC Tracking Purposes:

Copy of Check Received by RHC _____ Notice Sent to Finance _____

TO BE FILLED OUT BY LOCAL FINANCIAL MANAGEMENT OFFICE:

IFMS Accounts Receivable Control Number _____

If you have any questions call: _____
in the Financial Management Office

Phone Number



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
FIVE POST OFFICE SQUARE SUITE 100
BOSTON, MASSACHUSETTS 02109-3912

RECEIVED

2013 APR -8 P 3:05

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK
BY HAND

April 8, 2013

Wanda Santiago
Regional Hearing Clerk
U.S. Environmental Protection Agency - Region I
5 Post Office Square
Suite 100, Mail Code ORA18-1
Boston, MA 02109-3912

Re: In the Matter of: Ciotola and Simeone; Docket No. TSCA-01-2013-0005

Dear Ms. Santiago,

Enclosed for filing, please find a Consent Agreement and Final Order (CAFO) settling the matter referenced above.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Christine Foot".

Christine Foot
Enforcement Counsel
EPA Region 1

Enclosures

cc: Carol Simeone
Donald Ciotola

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1

RECEIVED

2013 APR -8 P 3:05

IN THE MATTER OF:)
)
DONALD CIOTOLA and)
CAROL SIMEONE)
)
Respondents.)
_____)

Docket No. TSCA-01-2013-0005

EPA ORC
OFFICE OF
REGIONAL HEARING CLERK

**CONSENT AGREEMENT
AND FINAL ORDER**

CONSENT AGREEMENT

Complainant, the United States Environmental Protection Agency (“EPA”), filed an Administrative Complaint and Notice of Opportunity for Hearing (“Complaint”) against Respondents, Donald Ciotola and Carol Simeone, on January 2, 2013. The Complainant and Respondents hereby agree that settlement of this matter is in the public interest and that entry of this Consent Agreement and Final Order (“CAFO”) without further litigation is the most appropriate means of resolving this matter.

STATUTORY AND REGULATORY AUTHORITY

1. This CAFO resolves an administrative action for the assessment of civil monetary penalties brought pursuant to Section 16(a) of the Toxic Substances Control Act (“TSCA”), 15 U.S.C. § 2615(a), 40 C.F.R. § 745.118, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22.

2. EPA alleged in the Complaint that Respondents violated Section 409 of TSCA, 15 U.S.C. § 2689; the Residential Lead-Based Paint Hazard Reduction Act of 1992 (“the Act”), 42

U.S.C. § 4851 et seq.; and federal regulations promulgated thereunder, entitled “Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property” and set forth in 40 C.F.R. Part 745, Subpart F (the “Disclosure Rule”).

TERMS OF SETTLEMENT

3. The provisions of this CAFO shall apply to and be binding on each Respondent and its officers, directors, successors, and assigns.

4. Respondents stipulate that EPA has jurisdiction over the subject matter alleged in the Complaint and that the Complaint states a claim upon which relief can be granted against Respondents. Respondents waive any defenses they might have as to jurisdiction and venue and, without admitting or denying the factual and legal allegations contained in the Complaint, consent to the terms of this CAFO.

5. Respondents hereby waive the right to a judicial or administrative hearing on any issue of law or fact set forth in the Complaint and the right to appeal the Final Order.

6. Respondents hereby certify that they are currently complying with the Residential Lead-Based Paint Hazard Reduction Act of 1992, 42 U.S.C. § 4851 et seq., and the requirements set forth in the Disclosure Rule, 40 C.F.R. Part 745, Subpart F.

7. In addition, Respondents hereby certify that they are currently complying with the requirements set forth in 40 C.F.R. Part 745, Subparts E and L (together, the “Renovation, Repair, and Painting Rule”).

8. Pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a), and in light of the nature of the violations and relevant statutory penalty criteria, EPA has determined that it is fair and proper to assess a civil penalty of \$13,900.00 for the violations alleged in this matter.

9. In accordance with 40 C.F.R. § 22.31(b), the effective date is the date on which this CAFO is filed with the Regional Hearing Clerk.

10. Respondents shall pay the civil penalty of \$13,900 in three (3) installments. The first payment shall be \$4,700 and shall be made within thirty (30) days of the effective date of this CAFO. The second payment shall be \$4,658 (consisting of \$4,600 in principal plus \$58 in interest) and shall be made within 105 days of the effective date of this CAFO. The third and final payment shall be \$4,629 (consisting of \$4,600 in principal plus \$29 in interest) and shall be made within 180 days of the effective date of this CAFO. In each case, Respondents shall make the payment by submitting a cashier's or certified check made payable to the order of the "Treasurer, United States of America," and referencing the case name and the docket number of this action on its face, to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

In addition, at the time of payment, Respondents shall simultaneously send notice of the payment and copies of the check to:

Wanda Santiago
Regional Hearing Clerk
Mail Code ORA 18-1
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

and

Christine M. Foot
Enforcement Counsel
Mail Code OES 04-2
U.S. Environmental Protection Agency, Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

11. If Respondents fail to make any of the payments required by Paragraph 10 by the required due dates, all remaining installments shall become immediately due and payable as of the missed payment date. Interest on such unpaid penalty amounts shall accrue from the missed payment date until the total amount due has been received by the United States. Respondents shall be liable for such amounts regardless of whether EPA has notified Respondents of their failure to pay or made demand for payment. All payments to the United States under this paragraph shall be made by cashier's or certified check as described in Paragraph 10.

12. Pursuant to 31 U.S.C. § 3717, EPA is entitled to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim.

13. Interest shall be payable at the rate of the United States Treasury tax and loan rate in accordance with 31 C.F.R. § 901.9(b)(2) and shall accrue from the original date on which the penalty was due to the date of payment. A charge will be assessed to cover the costs of debt collection, including processing and handling costs and attorneys fees. In addition, a non-payment penalty charge of six (6) percent per year compounded annually will be assessed on any portion of the debt which remains delinquent more than ninety (90) days after payment is due. However, should assessment of the penalty charge on the debt be required, it will be assessed as of the first day payment is due under 31 C.F.R. § 901.9(d). In any such collection action, the validity, amount, and appropriateness of the penalty shall not be subject to review.

14. The civil penalty provided under this CAFO, and any interest, nonpayment penalties, and charges described in this CAFO, shall represent penalties assessed by EPA within the meaning of 26 U.S.C. § 162(f) and are not tax deductible for purposes of federal, state, or local law. Accordingly, Respondents agree to treat all payments made pursuant to this CAFO as penalties within the meaning of 26 C.F.R. § 1.162-21, and further agree not to use those payments in any way as, or in furtherance of, a tax deduction under federal, state, or local law.

15. This CAFO constitutes a settlement by EPA of all claims for civil penalties pursuant to Section 16(a) of TSCA, 15 U.S.C. § 2615(a) for the violations alleged in the Complaint. Compliance with this CAFO shall not be a defense to any other actions subsequently commenced pursuant to federal laws and regulations administered by EPA for matters not addressed in the Complaint or this CAFO, and it is the responsibility of Respondents to comply with all applicable provisions of federal, state, or local law.

16. This CAFO in no way relieves Respondents or their employees of any criminal liability. EPA reserves the authority to undertake any action against Respondents in response to conditions which may present an imminent and substantial endangerment to the public health, welfare, or the environment.

17. Except as specifically settled herein, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this CAFO or of the statutes and regulations upon which the Complaint and this CAFO is based, or for Respondents' violation of any applicable provision of law.

18. The Parties shall bear their own costs and fees in this action, including attorneys' fees, and specifically waive any right to recover such costs from the other party pursuant to the Equal Access to Justice Act, 5 U.S.C § 504, or other applicable laws.

19. Each undersigned representative of the Parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to enter into the terms and conditions of this CAFO and to execute and legally bind that party to it.

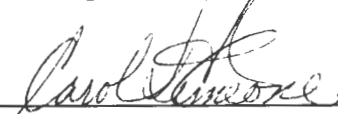
For Complainant:



Joanna Jerison, Legal Enforcement Manager
Office of Environmental Stewardship
U.S. Environmental Protection Agency, Region 1

Date: 4/5/13

For Respondents:



Carol Simeone

Date: 3-26-13



Donald Ciotola

Date: 3-26-13

FINAL ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Final Order. Respondent is hereby ordered to comply with the terms of the above Consent Agreement, which will be effective on the date it is filed with the Regional Hearing Clerk.

Date:

April 8, 2013



LeAnn Jensen
Acting Regional Judicial Officer
U.S. Environmental Protection Agency, Region I

In the Matter of: Ciotola and Simeone
Docket No. TSCA-01-2013-0005

CERTIFICATE OF SERVICE

I hereby certify that foregoing Consent Agreement and Final Order has been sent to the following persons on the date noted below:


Original and One Copy
(hand-delivered):

Wanda I. Santiago
Regional Hearing Clerk
U.S. EPA, Region 1
5 Post Office Square Suite 100
Mail Code ORA18-1
Boston, MA 02109-3912

One Copy (Certified Mail,
Return Receipt Requested):

Carol Simeone
Donald Ciotola
35 Evergreen Road
Chepachet, Rhode Island 02814

Dated: 4/8/13


Christine Foot, Enforcement Counsel
U.S. EPA, Region 1
5 Post Office Square Suite 100
Mail Code OES04-2
Boston, MA 02109-3912
Phone: 617-918-1333
Fax: 617-918-0333
E-mail: foot.christine@epa.gov